

PROPOSED AMENDMENT TO THE "RULES AND REGULATIONS
FOR SECURING APPROVAL OF PROJECTS IN BOSTON UNDER
CHAPTER 121A OF THE GENERAL LAWS, AS AMENDED"

4. Every Application submitted to the Authority under Section 13 shall contain:

...

- Q. A statement of the number of years of extension of exemption from property taxation, if any, requested by the Applicant, pursuant to the provisions of Section 10 of Chapter 121A of M. G. L. as amended by C. 827 of the Acts of 1975. Said request shall be supported by:

- (i) A statement of each amenity provision listed below for which the Applicant believes the Project qualifies;
- (ii) A statement of the magnitude of each amenity provided, in both physical and financial terms;
- (iii) A statement of the need for and usefulness of the amenity as designed, in the Project Area;
- (iv) A statement of the number of years of extension requested for each amenity provided.

The following factors shall be considered in evaluating any amenity for which an extension is sought:

1. The added expense borne by the Applicant because of the provision of such amenity, including, without limiting the generality of the following:
 - (a) Expenses to be incurred during the development and construction phase of the Project;
 - (b) Continuing expenses to be incurred during the operation of the Project.
2. Other financial considerations, such as the term of long-term financing to be provided to the Project or loss of Project revenue.
3. Intentions of Support for the amenities from persons within the community whom the Project is intended to serve.

4. Ways in which the amenities to be provided exceed the amenities which are required to be provided under the laws, ordinances, and regulations in effect at the time of the Application.
5. Public policies in favor of the provisions of the amenities.
6. The general level of such amenities provided in other 121A Projects and in similar Projects not qualified under 121A may be used as a guideline for evaluating the proposed amenities as to quality and quantity.
7. Other factors, deemed appropriate under the circumstances, may be utilized in determining the period of exemption to be granted, but such factors shall be specified in writing and included in the Report and Decision.

The schedule of amenities upon which an extension may be granted shall include, but not be limited to, the following classifications:

(A) Housing or Facilities Designed for the Servicing of the Special Needs of Handicapped Persons.

1. The maximum period of extension shall be ten (10) years. The minimum extension shall be one (1) year.
2. In granting an extension the following factor, among others, shall be considered - (i) recommendations of public interest groups such as the Massachusetts Council of Organizations of the Handicapped, or the Massachusetts Association of Paraplegics.

(B) Facilities Designed for the Servicing of Specific Needs of Learning Disabled Children.

1. The maximum period of extension shall be ten (10) years. The minimum extension shall be one (1) year.
2. In granting an extension the following factor, among others, shall be considered - (i) recommendations of public interest groups such as the Association of Children with Learning Disabilities.

(C) Commercial or Industrial Development Which Will Result in the Employment of Minority Persons or Persons Residing in or near the Project.

1. The maximum period of extension shall be ten (10) years. The minimum extension shall be one (1) year.
2. In granting an extension the following factors, among others, shall be considered - (i) the percentage of minority persons or persons residing in or near the Project which obtain employment as a result of the Project in relation to the total number of people employed as a result of the Project; (ii) whether the jobs created by the undertaking of the Project result in temporary or permanent positions for minority persons or persons residing in or near the Project.

(D) Restoration or Rehabilitation of Structures or Sites of Architectural or Historical Merit.

1. The maximum period of extension shall be ten (10) years. The minimum extension shall be one (1) year.
2. This extension may be granted for restoration or rehabilitation of structures or sites which are - (i) listed in the National Register of Historic Places; (ii) listed in the Inventory of Historic Assets of the Commonwealth; (iii) certified by the Massachusetts Historical Commission or the Boston Landmarks Commission; (iv) located in a historical district established under the local zoning code; or (v) otherwise shown to be of historic value.

(E) Provisions for Open Space.

1. The maximum period of extension shall be ten (10) years. The minimum extension shall be one (1) year.
2. In granting such an extension, the following factors, among others, shall be considered - (i) the degree to which specially landscaped walks, plazas or open space are open to the public; (ii) the degree to which such open spaces are integrated into present or proposed open spaces to form coordinated open space networks; (iii) the degree to which creative landscaping, such as buffer areas, screening or

special treatment of parking areas, are of particular benefit to the community or neighborhood; (iv) the degree to which an environmentally sensitive area will be protected; (v) the degree of protection and accessibility provided to an area of outstanding natural beauty; (vi) whether the open space is donated to the community for conservation purposes; (vii) the quality and quantity of open space.

(F) Provisions for Recreational or Community Public Facilities.

1. The maximum period of extension shall be ten (10) years. The minimum extension shall be one (1) year.
2. In granting an extension, the following factors, among others, shall be considered - (i) the availability to the public of facilities during the exemption period and beyond; (ii) the method and degree of public control over the determination and use of the facilities; (iii) the degree to which the facilities meet the needs of the residents in the immediate area and the community; (iv) the quantity and quality of the facilities.

(G) Significant Architectural Features.

1. The maximum period of extension shall be ten (10) years. The minimum extension shall be one (1) year.
2. Significant architectural features shall be reviewed as a package relating to the Project as a whole, and the granting of an extension shall be based on the entire set of significant architectural features.
3. In granting an extension, the following factors, among others, shall be considered - (i) building massing; (ii) construction materials; (iii) landscaping; (iv) works of art incorporated into the Project; (v) energy saving materials or design; (vi) architectural features designed to promote the use of mass transit; (vii) such other architectural features as are deemed appropriate.

(H) Unusual Features of Construction or Design to Overcome a Factor Which Contributed to the Project Being a Blighted Open Area.

1. The maximum period of extension shall be ten (10) years. The minimum extension shall be one (1) year.

2. In granting an extension, the following factor, among others, shall be considered - (i) whether unusual design or construction features were necessary to make the Project possible and/or feasible.

(I) Housing for Persons of Low and Moderate Income.

1. Pursuant to Section 10 of Chapter 121A of the General Laws, any 121A entity which proposes a Project or portion thereof of housing subsidized or financed under any federal or state program to assist the construction of low or moderate income housing shall receive a twenty-five (25) year extension.
2. In granting an extension for housing for persons of low and moderate income which is not subsidized or financed under any federal or state program, the maximum period of extension shall be twenty-five (25) years. The minimum extension shall be one (1) year. The following factors, among others, shall be considered in granting such an extension -
 - (i) the percentage of units designated for persons of low and moderate income; (ii) the number of years for which a plan of occupancy by persons of low and moderate income has been assured; (iii) the degree to which appropriate community facilities are provided to serve the needs of persons of low and moderate income.

BOSTON REDEVELOPMENT AUTHORITY

LEGAL NOTICE

In accordance with Chapter 121A, § 10 and Chapter 30A, Section 2 of the General Laws, notice is hereby given that the Boston Redevelopment Authority, hereinafter referred to as the "Authority", will hold a public hearing in Room 921, New City Hall, Boston, Massachusetts, on September 9, 1976, at 2:00 P. M., on an Amendment to the Rules and Regulations For Securing Approval of Projects in Boston Under Chapter 121A of the General Laws, As Amended.

The proposed Amendment to the Authority's Rules and Regulations pertains to criteria for granting an additional period of exemption from taxation with respect to a Project authorized under Chapter 121A and guidelines for determining the duration of such exemption period.

The proposed Amendment to the Rules and Regulations For Securing Approval of Projects in Boston Under Chapter 121A of the General Laws, As Amended, are available for public examination at the office of the Boston Redevelopment Authority, Room 982, New City Hall, One City Hall Square, Boston, Massachusetts, from 9:00 A. M. to 5:00 P. M., Monday through Friday.

BOSTON REDEVELOPMENT AUTHORITY

KANE SIMONIAN
Secretary

121A § 7A

PUBLIC WELFARE

§ 7A. Purchase or lease of real estate by urban redevelopment corporation from housing authority; approval

A corporation organized under section three or an insurance company or a group of insurance companies or a savings bank or group of savings banks operating under this chapter may purchase or lease from a housing authority, redevelopment authority, municipality or other public body real estate acquired by such authority, municipality or public body for land assembly and redevelopment or urban renewal purposes under chapter one hundred and twenty-one B, upon such terms and conditions, consistent with this chapter, as shall be approved by the housing board and may erect and maintain a project upon the land so acquired. Such corporation shall not be required to offer its stock to the owners of the real estate within the location of the project and such owners have no preferential right to subscribe thereto; but in all other respects the provisions of this chapter shall be applicable to corporations acting thereunder and their projects.

Amended by St.1969, c. 751, § 3.

1969 Amendment. St.1969, c. 751, § 3, approved Aug. 21, 1969, in first sentence substituted reference to c. 121B for c. 121.

St.1969, c. 751, §§ 23-26MMM, repealing these sections was approved on Aug. 21, 1969.

Cross References

Insurance companies, real estate holdings limited by this section, see c. 175, § 64.

§ 9. Limitation in repayment of investment in stock; limitations of dividends

Except as provided in section sixteen, the stockholders of every such corporation shall be deemed, when they subscribe to and receive the stock thereof, to have agreed that they shall at no time receive or accept from the corporation, in repayment of their investment in its stock, any sums in excess of the par value, if any, of the stock, together with cumulative dividends thereon at the rate of eight per cent per annum, or in the case of stock without par value, cumulative dividends at the rate of eight per cent per annum of the amount of consideration paid for such stock, as determined by the housing board at the time it approves the issue of such stock. No stockholder in any such corporation shall receive any dividend in any one year in excess of the aforesaid rates, except that when in any prior year or years dividends in the amount authorized to be paid by such corporation shall not have been paid in full on the said stock, the stockholders shall be entitled to receive the payment of so much of such deficiency without interest, out of any earned surplus which may be available in any succeeding year, as the board of directors of the corporation shall determine. Nothing in this section shall be applicable to the payment of dividends out of profits from the sale of capital assets of the corporation. This section shall not apply to charitable corporations organized pursuant to and meeting the standards of section three, provided that all surplus earnings from projects there specified, however categorized, shall be employed in further urban redevelopment projects.

Amended by St.1975, c. 827, § 6.

1975 Amendment. St.1975, c. 827, § 6, approved Dec. 23, 1975, substituted "eight per cent" for "six per cent" twice in the first sentence.

See, also, the note under section 3 of this chapter.

§ 10. Exemption from taxation and assessments; valuation; appeals; annual payment; additional tax and project approval procedure

For a period of fifteen years after the organization of any such corporation, such corporation and all its real and personal property, including all real and personal property leased by it from a housing authority or from a redevelopment authority

or from a city or town or a corporation wholly owned or controlled by a city or town, shall be exempt from taxation and from betterments and special assessments; and for such period any such corporation shall not be required to pay any tax, excise, or assessment to or for the commonwealth or any of its political subdivisions; provided, however, that notwithstanding the foregoing provisions of this section, any such corporation shall be required to pay (1) the excises and sums respectively prescribed by this section and section fifteen; (2) excises assessed under chapter sixty A and acts in amendment thereof or addition thereto; and (3) excises imposed by chapter sixty-four A and acts in amendment thereof or addition thereto; and provided, further, that nothing in this section shall be construed to prevent any such corporation which enters into a contract under section fourteen from agreeing therein to make, or from making pursuant thereto, payments in lieu of betterments or special assessments.

Notwithstanding the foregoing provisions of this section, the assessors of every city or town in which real or tangible personal property exempted by this section from taxation under chapter fifty-nine is situated on January first of any year shall, on or before March first in such year, determine and certify to the state tax commission and to the corporation organized under this chapter which owns or leases such property the fair cash value of such property as of January first in such year. On or before the first day of April then next ensuing, or within thirty days after the receipt of the certification of valuation from the assessors, whichever is later, such corporation, if aggrieved by such valuation, may appeal therefrom to the appellate tax board. Said board shall hear and decide the subject matter of such appeal and give notice of its decision to the state tax commission, the assessors and the corporation; and, except as provided in section thirteen of chapter fifty-eight A, such decision shall be final and conclusive.

During the period of fifteen years after the organization of a corporation under this chapter, such corporation shall pay in each calendar year to the commonwealth with respect to its corporate existence at any time within the preceding calendar year an excise equal to the sum of the following: namely, an amount equal to five per cent of its gross income in such preceding calendar year, from all sources, and an amount equal to ten dollars per thousand upon the valuation determined as hereinbefore provided to be the fair cash value as of January first in the year in which the excise becomes payable of all real and tangible personal property of such corporation, including all real and tangible personal property leased by it which is exempted by this section from taxation under chapter fifty-nine; provided, that the excise payable in any year shall not be less than the amount which the city or town would receive for taxes, at the rate for such year, upon whichever of the following valuations is the lesser: (a) the valuation upon which the aforesaid amount equal to ten dollars per thousand is computed; or (b) the average of the assessed valuations of the land and all buildings and other things erected thereon or affixed thereto on the three assessment dates, in the case of land purchased, taken or leased by such corporation from a housing authority, redevelopment authority, city, town or corporation wholly owned or controlled by a city or town, next preceding the acquisition of the land by such housing authority, redevelopment authority, city, town or wholly owned or controlled corporation, and in the case of all other land purchased, taken or leased by a corporation organized under this chapter, next preceding the acquisition thereof by such corporation, the assessed valuation for each assessment date being reduced by all abatements, if any. As used herein, the phrase "rate for such year" shall be the rate established by the city or town with respect to the fiscal year commencing during the calendar year for which a return is filed by the corporation.¹

Any plan for a project may provide that the project may be developed in separate stages, and such stages may be varied from time to time with the approval of the housing board. Whenever a project shall be developed in stages, any excise payable with respect to corporate existence in a calendar year ending before construction of

the last stage of the project is completed, shall be computed as though each stage constituted a separate project owned by a separate corporation.

All provisions of chapter sixty-three relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, applicable to domestic business corporations, as defined in section thirty of said chapter sixty-three, shall be applicable to the excise payable under this section. Said excise shall be distributed, credited and paid to the city or town where the project of the corporation is located.

Real estate acquired by a corporation organized under this chapter by lease from any person other than a housing authority, redevelopment authority, city, town or corporation wholly owned or controlled by a city or town, shall be subject to taxation in the same manner and to the same extent as if such real estate were wholly owned and occupied by a private person; but so long as the period of fifteen years from the organization of such corporation has not expired and the leasehold estate continues to be held by such corporation, all buildings and other things erected by such corporation on, or affixed by such corporation to, any land acquired by such corporation by such lease shall, for the purposes of this chapter and of chapter fifty-nine, be deemed to be tangible personal property of such corporation. Real estate acquired by lease as aforesaid shall be excluded in making determinations and computing the excise under this section, except that the assessed valuation of all buildings and other things erected thereon or affixed thereto on the three assessment dates next preceding acquisition by such lease shall be included in computing the average valuation under clause (b) of the third paragraph of this section.

Notwithstanding any other provisions of this chapter or of any other law, the assessors of the city or town in which a project is to be located may, upon the request of the housing board they shall determine for the purposes of this section the maximum fair cash value of any proposed project or of any stage or stages thereof. Such determination may be made prior to the construction of the project or of any stage or stages thereof on the basis of the plan for such project, stage or stages, and every fifth year thereafter. Whenever any such quinquennial determination shall have been made, the fair cash value of the real estate and tangible personal property of the corporation shall in no event be valued for the purposes of this section in an amount exceeding such maximum fair cash value, except upon a showing that the corporation has acquired real estate or tangible personal property not included in the plan upon which such maximum fair cash value was based, and in such event any such excess valuation shall be limited to the value of such additional real estate and tangible personal property.

All such information, as submitted to the tax commission, the department of corporations and taxation, and the appellate tax board by such corporation and the assessors of every such city or town, shall be filed with the housing board and in the office of the assessor of the city or town in which the project is located, and, upon request, shall be made available by said department of corporations and taxation and by the housing board to any person in accordance with the twenty-sixth clause of section four of chapter seven.

For the purposes of this section, "gross income" shall mean payments actually made by persons for the right to reside in or occupy any portion or all of the project and shall not be deemed to include any payments made by any governmental unit to or on behalf of such corporation or to or on behalf of any tenant of such corporation which are in addition to such payments actually made by such tenant.

The fifteen year period of exemption from taxation provided in this section may be extended as herein provided with respect to a project authorized under this chapter for an additional period of time, provided, however, that the original fifteen year period and any additional period shall not exceed, in the aggregate, forty years. The granting of any such extension and the duration thereof shall be based upon the amenities established or to be established in the project area and shall be determined in accordance with rules and regulations from time to time promulgated by

the housing board. Said rules and regulations shall detail the nature, quality and quantity of various amenities any one or more of which, if established within the project authorized under this chapter, would significantly contribute to the utility or distinctiveness of the project and shall further stipulate the maximum period and minimum period of extension of exemption from taxation applicable to each such amenity. In determining the duration of the applicable extension period for the purposes of the rules and regulations, the housing board shall consider, among other things, the effect the amenity may have on a project with respect to additional project costs or loss of project revenue.

The schedule of amenities as shall be specified in the rules and regulations, upon which an extension may be granted, shall include, but not necessarily be limited to: (a) housing for persons of low and moderate income; (b) housing or facilities designed for the servicing of the specific needs of handicapped persons; (c) facilities designed for the servicing of the specific needs of learning disabled children; (d) commercial or industrial development which will result in the employment of minority persons or of persons residing in or near the project; (e) restoration or rehabilitation of structures or sites of architectural or historic merit, when such structures or sites are in the National Register of Historic Places or are in the Inventory of Historic Assets of the Commonwealth and when they are certified by the Massachusetts Historical Commission, and when any such registered or certified structures or sites are coupled with the development of facilities which contribute to public understanding the appreciation of their significance; (f) provisions for open space; (g) provisions for recreational or community public facilities; (h) provisions for the incorporation of significant architectural features in the construction and design of the project and (i) provisions for the incorporation of unusual features of construction or design to overcome a factor which contributed to the project being a blighted open area.

The rules and regulations required by this section shall be adopted and may be amended by the housing board only after said board has held a public hearing. Said hearing shall be conducted by the housing board pursuant to the provisions of section two of chapter thirty A except that, and in addition to the notice requirements thereof, the housing board shall, at least thirty-five days prior to the public hearing, send notice of said hearing to: (a) all corporations authorized to undertake a project under provisions of this chapter; (b) any applicant seeking authorization to undertake a project under provisions of this chapter; and (c) the mayor, city council and planning board in cities, and the selectmen and planning board in towns, in which corporations have been authorized to undertake projects or in which applicants seek authorization to undertake projects thereunder. The housing board may rely upon its records in satisfying the notice requirements of this paragraph.

Applications for an extension period shall only be made to the housing board at the time initial authority and approval is sought, except, however, application may be made within ten years after the initial authority and approval is granted provided that such application seeks an extension period based on the establishment of amenities within a portion of a project, the use of which was undesignated at the time of the granting of such initial authority and approval; and excepted further, that in the event of future amendment or change of the rules and regulations promulgated pursuant to this section, application may be made at any time, by a corporation authorized under this chapter, after such amendment or change is in force and effect, provided however, that any such application seeks an extension, the grant of which shall be consistent with any amended or changed rule or regulation then in force and effect.

Applications for an extension period submitted to the housing board pursuant to this section shall be transmitted for public hearing and determination in the same manner as provided for the application for approval of a project under this chapter, provided, however, that if such application for an extension period is submitted as

part of an original application for project approval, such application shall be heard and determined in conjunction with the original application.

Subject to the provisions of this section and the rules and regulations of the housing board adopted as provided herein, an application for an extension period may be approved or disapproved, or disapproved with recommended changes which, if made, would warrant approval. In granting approval of such application, the approving authority shall specify the number of years of extension of exemption from taxation granted. If the application is disapproved with recommended changes, the applicant may amend its application for extension of the period of tax exemption in accordance with such suggested changes and resubmit the application as amended to the approving authority. The approving authority may approve or disapprove the application as amended without further public hearing, unless, in its opinion, the proposed changes materially affect the cost of the project, the revenue accruing to the city or town therefrom, or the period of exemption from taxation granted to the project pursuant to this section, in which event the approving authority shall hold a further public hearing in accordance with the provisions of this chapter applicable to an original application.

Any corporation authorized under this chapter proposing (a) a project or portion thereof of housing subsidized by the federal or state government under any program to assist the construction of low or moderate income housing as defined in the applicable federal or state statutes whether built or operated by any public agency or any non-profit or limited dividend organization including a project or portion thereof financed under the provisions of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, as amended, or (b) a project or portion thereof of low and moderate income housing to be financed in whole or in part by funds made available by the federal or state government or any instrumentality thereof or by any mortgage or mortgage bonds insured or guaranteed by the federal housing commissioner or the administrator of veterans' affairs or any other instrumentality of the federal or state governments shall receive with respect to such projects or portions thereof, an initial fifteen year period of tax exemption as provided by section ten and shall receive an additional period of tax exemption equal to twenty-five years.

Amended by St.1969, c. 540, § 1; St.1975, c. 76; St.1975, c. 119, § 1; St.1975, c. 827, § 7.

¹ This sentence reads as appearing in St.1975, c. 827, § 7; the sentence was also added by St.1975, c. 76, to read as appearing in the note under this section.

1975 Amendments

St.1975, c. 827, § 7, amended the text of this section to read as now appearing without reference to St.1975, c. 119, § 1, which inserted the words "and every fifth year thereafter" and "quinquennial" appearing in the second and third sentences, respectively, of the seventh paragraph.

St.1975, c. 827, § 7, also amended the text of this section to read as now appearing without reference to St.1975, c. 76, which added the second sentence of the third paragraph to read as appearing in the note under this section.

1969 Amendment. St.1969, c. 540, § 1, approved July 17, 1969, and by section 2 made effective Jan. 1, 1970, inserted ", or within thirty days after the receipt of the certification of valuation from the assessors, whichever is later" in second sentence of second paragraph.

1975 Amendments. St.1975, c. 76, approved March 25, 1975, added the second sentence of the third paragraph to read: "As used herein, the phrase "rate for such year" shall be the rate established by the

city or town for the fiscal year commencing during the preceding calendar year for which a return is filed by the corporation."

St.1975, c. 119, § 1, approved April 11, 1975, in the seventh paragraph, inserted "and every fifth year thereafter" at the end of the second sentence, and inserted "quinquennial" near the beginning of the third sentence in conformity therewith.

Sections 2 and 3 of St.1975, c. 119, provided:

BOSTON REDEVELOPMENT AUTHORITY

PUBLIC HEARING

ON

AMENDMENT TO THE "RULES AND REGULATIONS FOR SECURING
APPROVAL OF PROJECTS IN BOSTON UNDER CHAPTER 121A OF
THE GENERAL LAWS, AS AMENDED"

OPENING STATEMENT OF THE CHAIRMAN

THE CHAIRMAN: Members of the Authority and Ladies and Gentlemen. This is a public hearing being held by the Boston Redevelopment Authority pursuant to Section 10 of Chapter 121A of the General Laws, as recently amended by Chapter 827 of the Acts of 1975. Section 10 reduces the tax exempt period of Chapter 121A entities which filed their Applications after March 22, 1976 from 40 years to 15 years.

The original 15 year period of exemption may be extended for an additional period of time, however, there are two significant qualifications. First, the burden is on the Redeveloper to demonstrate meritorious achievement warranting an extended period of exemption. The criteria imposed is the extent to which the amenities created and proposed go beyond what is normally expected to meet public use and safety standards. Second, any proposed extension when added to the original 15 year period cannot exceed a total of 40 years.

Because the rules and regulations required by this Section can only be adopted by this Authority after a public hearing conducted pursuant to the provisions of Section 2 of Chapter 30A of the General Laws (Administrative Procedure Act), it is appropriate that a public hearing be held on the new rules and regulations of the Authority relating to the granting of extensions of tax exempt periods for 121A entities.

Notice of this hearing has been given in accordance with applicable statutes and rules and regulations and orders of this Authority.

All statements from the floor shall be directed to the members of the Authority. No person shall be permitted to speak, however, unless and until recognized by the Chair. Once recognized by the Chair, such person shall state clearly his name and address and that of any individual or group, if any, that he or she represents.

The Authority wishes to insure that this public hearing will be conducted in a fair and orderly fashion.

We will now commence the hearing.

